
***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

+ Writ Petition No. 5395 of 2007

% Dated 16.03.2007

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Smt D.Varalakshmi.

....Petitioner

\$ The District Collector and District Magistrate, Hyderabad District at
Hyderabad and another.

....Respondents

! Counsel for the petitioner

: Sri Amarnath Goud

^ Counsel for respondents

: GP for Home

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? Cases referred:

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.5395 of 2007

Dt:16.03.2007

Between:

Smt D.Varalakshmi.

.. Petitioner

and

The District Collector and district Magistrate, Hyderabad District at
Hyderabad and another.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.5395 OF 2007

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ORDER:

The petitioner was appointed as an Additional Public Prosecutor for the Court of V Additional Metropolitan Sessions Judge-cum-Mahila Court, Hyderabad, in the year 2000, for a term of three years. On expiry of the term, the second respondent issued proceedings, extending her term, until further orders. Thereafter, steps were initiated in accordance with Section 24 of Cr.P.C., for appointment of Additional Public Prosecutor, for that Court.

The petitioner states that her name has been recommended by the V Additional Metropolitan Sessions Judge, Hyderabad, and according to her information, it was not included in the panel prepared by the first respondent. A writ of Mandamus, to declare the action of the respondents in omitting the name of the petitioner from the panel as illegal and arbitrary, is sought.

Sri Amarnath Goud, the learned counsel for the petitioner submits that the consultation process contemplated under sub-Section (4) of Section 24 Cr.P.C. has its own significance and it cannot be reduced to an empty formality. According to the learned counsel, the Presiding Officer of the V Additional Metropolitan Sessions Court had a better opportunity to appreciate and assess the performance of candidates and the recommendation made by the said Officer ought not to have been ignored.

The learned Government Pleader for Home, on the other hand, submits that it is the first respondent, that is vested with the power to prepare the panel in consultation with the Sessions Judge and the fact that the name of the petitioner was not included in the panel, cannot lead to an inference that her case was not considered at all. He contends that no candidate can insist that his name be included in the panel.

The procedure stipulated under Section 24 of Cr.P.C. has been interpreted in scores of Judgments by the Supreme Court and the High Courts. The purport thereof is that it is for the District Magistrate to prepare the panel, as provided for under sub-Section (4) thereof, in consultation with the District Judge. Irrespective of the final shape of the exercise, the actual identification of the candidates to be included in the panel, on receiving the proposal from the District Magistrate, starts from the concerned Court, for which the Public Prosecutor or Additional Public Prosecutor is to be appointed. Uncertainty prevailed as to whether the assessment of the ability of the candidates must be undertaken by the Presiding Officer by himself or he can invite applications from the intending candidates. The latter course was held to be permissible, though not compulsory.

It is not uncommon that the Presiding Officer of the Court, to which the Additional Public Prosecutor is to be appointed, forwards the names to the Sessions Judge, who, in turn, is to be consulted by the District Magistrate, under Section (4) of Section 24 of Cr.P.C. A close reading of the said provision discloses that it is ultimately the satisfaction of the District Magistrate that becomes material, notwithstanding the obligation to consult the

Sessions Judge. According to the present norms, a panel of five names is to be prepared. The importance of the panel is recognized in sub-Section (5) of Section 24 of Cr.P.C., in the sense, that the Government cannot appoint any candidate as Public Prosecutor, unless his name finds place in the panel. Unless any patent illegality is pointed out or *mala fides* are attributed, the panel prepared by the District Magistrate, cannot be found fault with, on the sole ground that the name of a particular candidate is not included. In fact, no Advocate can insist that his name be included in the panel. The petitioner is not able to point out any material irregularity or infirmity, nor any *mala fides* are attributed against those concerned with the preparation of panel. This court is not inclined to entertain the Writ Petition.

Hence, the Writ Petition is dismissed. There shall be no order

as to costs.

16.03.2007

Note: L.R.Copy to be marked.

(B/o) JSU